

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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MOLLIE VICTORIA-LEE MCMILLAN, individually and as
Administratrix of the Estate of JOHN WESLEY
MCMILLAN, AKA “JOHN WESLEY MCMILLON,”
Deceased,

Plaintiff,

-against-

PAIGE LONDRIGAN, Individually, ERIC RICH, Individually,
ZACKERY PLUDE, Individually, THOMAS FOUNTAIN,
Individually, KYLE BACKUS, Individually, ROBERT TAGLEY,
Individually, MICHAEL JONES, Individually, SCOTT COOK,
Individually, KYLE BROOKS, Individually, RONNIE AUDETTE,
Individually, MICHAEL ROCK, Individually, and
“JOHN” PRITCHARD, Individually, ROBERT DRAGOON,
Individually, K. DIACOVO, Individually,

Defendants,

-----X

**ORDER OF
COMPROMISE**

22 CV 0059
(AMN/CFH)

WHEREAS, plaintiff MOLLIE VICTORIA-LEE MCMILLAN, as Administratrix of the
Estate of JOHN WESLEY MCMILLAN, commenced the above-captioned action in this Court;
and

WHEREAS, on or about October 31, 2024, the parties entered into a Stipulation of
Settlement that is attached hereto as Exhibit A, fully and finally settling and releasing all of the
claims asserted in this action in consideration for a total settlement payment of One Million Four
Hundred Thousand Dollars (\$1,400,000); and

WHEREAS, plaintiff has requested that this Court approve this settlement as fair and
reasonable and also approve plaintiff’s counsel’s attorneys’ fees and disbursements; and

WHEREAS, the Court has reviewed the parties’ submission, including the declarations of

Mollie Victoria-Lee McMillan, and Brett H. Klein, and the attachment thereto;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The total settlement amount of One Million Four Hundred Thousand Dollars (\$1,400,000) inclusive of all costs, disbursements, and attorney's fees (the "Settlement Amount") is hereby approved as just, fair, and reasonable.

2. No later than the 120-day or 150-day period from the date of this Order, as set forth in Paragraph 7 of the parties Stipulation of Settlement and Discontinuous, which was appended to plaintiff's motion of compromise as Exhibit A, defendants shall deliver to plaintiff's counsel a check made payable to "Brett H. Klein, Esq., PLLC as Attorneys for Mollie Victoria-Lee McMillan as Administratrix of the Estate of John Wesley McMillan" in the amount of the Settlement Amount.

3. The Settlement Amount shall be deposited into an interest-bearing escrow account controlled by Brett H. Klein, Esq., PLLC and shall be distributed as follows:

- a. Plaintiff's counsel's attorneys' fees of \$465,447.27 are hereby approved as fair and reasonable, and such amount shall be distributed to plaintiff's counsel promptly, pursuant to New York Estates, Powers and Trusts Law § 5-4.6(a)(2), after submission to this Court proof of filing of a petition for allocation and distribution in the Surrogate's Court.
- b. Plaintiff's counsel's disbursements of \$3,658.19 are hereby approved as fair and reasonable, and plaintiff's counsel shall be reimbursed for such amount out of the Settlement Amount promptly, pursuant to New York Estates, Powers and Trusts Law § 5-4.6(a)(2), after submission to this Court proof of filing of a petition for allocation

and distribution in the Surrogate's Court.

- c. The remainder of the Settlement Amount following the payment of plaintiff's counsel's attorney's fees and disbursements (the "Net Settlement Amount") shall remain in an interest-bearing escrow account controlled by Brett H. Klein, Esq., PLLC until the Surrogate's Court issues an order directing the distribution, in part or in whole, of the Net Settlement Amount.

IT IS SO ORDERED.

Dated: 11/19/2024

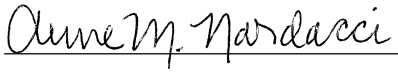

HON. ANNE M. NARDACCI
United States District Judge

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MOLLIE VICTORIA-LEE MCMILLAN, individually and
as Administratrix of the Estate of JOHN WESLEY
MCMILLAN, AKA "JOHN WESLEY MCMILLON,"
Deceased,

Plaintiff,

-against-

PAIGE LONDRIGAN et al.,

Defendants.

**STIPULATION OF
SETTLEMENT AND
DISCONTINUANCE
PURSUANT TO RULE
41(a)**

22-CV-0059

(AMN/CFH)

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned, the attorneys for Plaintiff Mollie Victoria-Lee McMillan, individually and as Administratrix of the Estate of John Wesley McMillan, a.k.a. "John Wesley McMillon," Deceased ("Plaintiff") and Defendants Paige Londrigan, Eric Rich, Zachery Plude, Thomas Fountain, Kyle Backus, Robert Tagley, Michael Jones, Scott Cook, Kyle Brooks, Ronnie Audette, Micheal Rock, Evan Pritchard (misnamed in the Complaint as "John Pritchard"), Robert Dragoon, and Kristofer Diacovo ("Defendants"), parties to the above entitled-action ("action"), that, whereas no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the action, the above-entitled action be and the same hereby is settled on the particular circumstances of this case, on the following terms and conditions, which it is agreed are of and shall have no legal precedential value in any other case either between the parties to this case or any other parties:

1. Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, Plaintiff hereby discontinues this action, inclusive of all outstanding substantive claims, with prejudice and without damages, costs, interest, or attorney's fees, under the conditions described in Paragraph 5 of this agreement, and further agrees to release Defendants and the State of New York, including its agencies, subdivisions, employees, private contractors or assignees, of any and all claims, demands, or causes of action, known or unknown, now existing or hereafter arising, whether presently asserted or not, which relate in any way to the subject matter of this action, and further agrees to discontinue and/or not to commence or to pursue in any court, arbitration or administrative proceeding, any litigation, appeal or claim against Defendants and others released hereby pertaining to the underlying facts, circumstances or incidents that gave rise to the aforementioned actions, or any results of the aforementioned facts, circumstances or incidents.

2. Plaintiff further agrees to discontinue with prejudice the matter of Mollie Victoria-Lee McMillian, as Administrator of the Estate of John Wesley McMillan, a.k.a. "John Wesley McMillon," Deceased v. State of New York, currently pending in the Court of Claims under Claim No. 135685 (the "Court of Claims action"), and agrees to execute any and all paperwork required to discontinue that matter.

3. The parties agree that no provision of this settlement shall be interpreted to be an acknowledgment of the validity of any of the allegations or claims that have been made in the action.

4. This settlement does not constitute a determination of, or admission by any party to, any underlying allegations, facts, or merits of their respective positions. The settlement of this action is limited to the circumstances in this case, including the remaining substantive claims, alone and shall not be given effect beyond the specific provisions stipulated hereto. This settlement

does not form and shall not be claimed as any precedent for or an agreement by the parties to any generally applicable policy or procedure in the future.

5. Following the execution of this Stipulation, and its being so ordered by the Court, Defendants shall cause to be paid to Plaintiff the sum of ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000.00) in full settlement of any and all claims, which amount includes all sums to which Plaintiff is entitled, including but not limited to damages, costs, and attorney's fees. The payment of said settlement will be made by check payable to Brett H. Klein, Esq., PLLC as Attorneys for Mollie Victoria-Lee McMillan as Administratrix of the Estate of John Wesley McMillan", and mailed to Plaintiff care of counsel: Brett H. Klein, Brett H. Klein, Esq., PLLC, 305 Broadway, Suite 600, New York, NY 10007.

6. Payment by Defendants of the amount specified in Paragraph 5 is conditioned on the approval of Plaintiff's Motion for Compromise by the Court and the approval of all appropriate state officials in accordance with the provisions for indemnification under section 17 of the New York Public Officers Law, and upon Plaintiff's signing and returning a "Standard Voucher" which will be mailed to Plaintiff's counsel by agents of Defendants responsible for the administrative processing of the settlement paperwork.

7. Payment of the amount in Paragraph 5 will be made within one hundred and twenty (120) days after the approval of this Stipulation by the Court, unless the provisions of Chapter 62 of the Laws of 2001 apply to the Estate of John Wesley McMillan and the payment hereunder constitutes "funds of a convicted person" under the Son of Sam Law, in which event, the one hundred twenty (120) day payment period shall be extended by an additional thirty (30) days to allow for compliance with that law.

8. This stipulation shall be null and void if the approvals referred to in Paragraph 6 are not obtained, and the actions shall then be placed back on the active docket without prejudice.

9. In the event that the terms of Paragraph 6 are satisfied, but payment is not made within the 120-day or 150-day period set forth in Paragraph 7, interest shall begin to accrue on the outstanding principal balance at the statutory rate on the 121st day after court approval or the or 151st day after court approval if the provisions of Chapter 62 of the Laws of 2001 apply to the Estate of John Wesley McMillan.

10. Plaintiff represents and warrants that John Wesley McMillan was not a Medicare recipient, that he has never been on Medicare or Social Security Disability, and that no conditional payments have been made by Medicare. Plaintiff further agrees to execute an Affidavit of Status of Medicare Eligibility in the form provided in the annexed Exhibit A.

11. Any existing or applicable liens to the Settlement Funds shall be the sole responsibility of Plaintiff.

12. This agreement shall be governed by the laws of the State of New York, and any dispute relating to, or arising from its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

13. The parties consent to the exclusive jurisdiction and venue of the U.S. District Court for the Northern District of New York, for all disputes arising out of or relating to this agreement.

14. The foregoing constitutes the entire agreement of the parties. No modifications or amendments of this agreement shall be effective unless they are set forth in writing and signed by the parties.

15. This agreement may be signed in counterparts. All executed counterparts, taken together, shall comprise the entire agreement.

Dated: 10/30/2024, Georgia

10/30/2024, 2024

Mollie Victoria-Lee McMillan
Mollie Victoria-Lee McMillan (2024.10.30, 2024 28:50 EDT)

Mollie Victoria-Lee McMillan, individually
and as Administratrix of the Estate of JOHN
WESLEY MCMILLAN

Dated: New York, New York

10/30/24, 2024

Brett H. Klein
Brett H. Klein
Attorney for Plaintiff
Brett H. Klein, Esq., PLLC
305 Broadway, Suite 600
New York, NY 10007

Dated: Albany, NY

10/31/24, 2024

LETITIA JAMES
Attorney General
State of New York
Attorney for Defendants
The Capitol

Matthew J. Gallagher
Digitally signed by
Matthew J. Gallagher
Date: 2024.10.31
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Matthew J. Gallagher
Assistant Attorney General, Of Counsel
Bar Roll No. 701111
Telephone: (518) 776-2284
E-mail: Matthew.Gallagher@ag.ny.gov

IT IS SO ORDERED:

Anne M. Nardacci
Hon. Anne M. Nardacci, U.S.D.J.
United States Magistrate Judge

Dated: 11/19/2024
Albany, New York